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Ash Pirayou
Attorney at Law
151 West St. James Street
San Jose, CA 95110

Re: **Campaign Contribution Collection Period**

Dear Mr. Pirayou:

This letter is in response to your letter to City Clerk Pat O'Hearn, regarding the campaign contribution period under the City's Campaign Ordinance. Your letter set forth your position and advice to your clients that contributions for the November 1998 general election could permissibly be collected during the 17 day period just prior to the June 1998 primary election.

You have certainly highlighted a definite ambiguity in the Code. Section 12.06.340 Campaign Contribution Collection Period provides as follows:

- A. No person shall solicit or accept any contributions for any campaign for a future Council or Mayoral election prior to one hundred eighty (180) days before that election.
- B. No candidate shall solicit or accept any contributions or deposit any contributions for **any** campaign into his or her campaign bank account after the seventeenth (17) day prior to an election for the term of office for City Council or Mayor. (emphasis added).

While subsection A would seem to have permitted collection of funds for the General Election as early as May 7th, we would interpret subsection B to preclude the collection of any campaign contributions from the seventeenth day before the June primary until after the June primary election. The intent of

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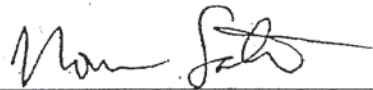
subsection B included having a dead time close to the election so that all contributors would be adequately disclosed in advance of the election. This goal would not be achieved by an interpretation which allowed collection for the general election during the "no collection" period. We are familiar with the FPPC letters, however, state law does not supersede Municipal Code requirements.

Nevertheless, the Code, as currently drafted, certainly lends itself to an interpretation which relies on subsection A to allow the solicitation or acceptance of contributions for the November election during the period from the 17th day before the June primary, especially since this is allowable under state law. It is inevitable that with each election cycle new issues of interpretation of our ordinance arise. Therefore, when we do the next post-election clean up of the ordinance, we will bring forward an amendment to the Municipal Code to clarify this provision of the City's Campaign Contribution ordinance.

Please feel free to call me if you have any questions.

Yours very truly,

JOAN R. GALLO, City Attorney

By 
Norman Sato
Chief Deputy City Attorney

cc: Pat O'Hearn